



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP  
Interim Cabinet Secretary**

**Christopher G. Nelson  
Interim Inspector General**

November 8, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-3152

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Trevor Wayne, WVDHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-3152**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on October 31, 2023.

The matter before the Hearing Officer arises from the October 17, 2023, decision by the Respondent to decrease Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Trevor Wayne, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Supplemental Nutrition Assistance Program (SNAP) redetermination form dated June 12, 2023, and Appellant's pay stubs
- D-2 Notice of Decision dated August 28, 2023
- D-3 Letter from ██████████ dated September 29, 2023
- D-4 Shelter expense statement
- D-5 Appellant's pay stubs
- D-6 Notice of Decision dated October 17, 2023
- D-7 Child Support payment information
- D-8 Case Comments from Respondent's computer system

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Appellant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Respondent sent the Appellant a Notice of Decision on October 17, 2023, indicating that SNAP benefits would decrease from \$281 to \$86 effective October 1, 2023, based on an increase in earned income (Exhibit D-6).
- 3) The Appellant's gross earned income averages \$1,365.20 per month based on pay stubs dated September 22, 2023, September 29, 2023, October 6, 2023 (gross pay less unanticipated overtime), and October 13, 2023 (Exhibit D-5).
- 4) The Appellant had child support deductions of \$107.31 on the September 22, 2023, pay stub; \$131.76 on the September 29, 2023, pay stub; \$169.97 on the October 6, 2023, pay stub; and \$147.82 on the October 13, 2023, pay stub. His child support payments average \$139.22 per week (Exhibit D-5).
- 5) The Appellant's current Child Support deduction as listed in the Respondent's computer system is \$210.78 per month (Exhibit D-7).
- 6) The Appellant pays an average of \$250 per month "toward all household bills and rent" based on a statement he provided to the Department (Exhibit D-4).
- 7) The Appellant had originally filed his hearing request based on an August 28, 2023, Notice of Decision regarding a proposed termination of SNAP benefits effective October 1, 2023, based on failure to meet Able-Bodied Adults Without Dependents (ABAWD) work requirements. However, the Appellant has since satisfied ABAWD requirements, and that issue was resolved.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 4.4.2. B lists allowable deductions for SNAP benefits. These deductions include the earned income disregard of 20 percent, the standard deduction, the dependent care deduction, the child support deduction, the Homeless Shelter Standard Deduction, medical expenses for the elderly and/or disabled, shelter expenses, and the Standard Utility Allowance (SUA).

Standard Utility Allowances are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B. Assistance Groups that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for an SUA deduction. AGs that are not obligated to pay any utility expenses are ineligible for the SUA, even if other residents pay utility expenses.

Code of Federal Regulations 7 CFR 273.9(d)(6)(iii) addresses Standard Utility Allowances for SNAP purposes and states, in pertinent part:

(A) With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in [paragraph \(d\)\(6\)\(ii\)\(C\)](#) of this section must be used in developing standards.

(B) The State agency must review the standards annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. State agencies must provide the amounts of standards to FNS when they are changed and submit methodologies used in developing and updating standards to FNS for approval when the methodologies are developed or changed.

(C) A standard with a heating or cooling component must be made available to households that incur heating or cooling expenses separately from their rent or mortgage and to households that receive direct or indirect assistance under the

Low Income Home Energy Assistance Act of 1981 (LIHEAA). A heating or cooling standard is available to households in private rental housing who are billed by their landlords on the basis of individual usage or who are charged a flat rate separately from their rent. However, households in public housing units which have central utility meters and which charge households only for excess heating or cooling costs are not entitled to a standard that includes heating or cooling costs based only on the charge for excess usage unless the State agency mandates the use of standard utility allowances in accordance with [paragraph \(d\)\(6\)\(iii\)\(E\)](#) of this section. Households that receive direct or indirect energy assistance that is excluded from income consideration (other than that provided under the LIHEAA) are entitled to a standard that includes heating or cooling only if the amount of the expense exceeds the amount of the assistance. Households that receive direct or indirect energy assistance that is counted as income and incur a heating or cooling expense are entitled to use a standard that includes heating or cooling costs. A household that has both an occupied home and an unoccupied home is only entitled to one standard.

### **DISCUSSION**

Policy states that child support payments are allowable income deductions for SNAP purposes. SNAP Assistance Groups that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for a Standard Utility Allowance deduction.

The Appellant contested a decrease in SNAP benefits from \$281 to \$86 effective October 2023. The Appellant's income had increased, and the Respondent's representative provided information about income deductions. The Appellant testified that he pays his landlord a percentage of his income each month to cover shelter and utility costs. While the amount can vary, the Appellant testified that he normally pays around \$250 per month (as stated on a rent/expense statement he previously provided to the Respondent). The Appellant's child support payments are based on a percentage of his income.

As the Appellant's utility expense is not billed separately from his shelter expense, policy does not provide for application of a Standard Utility Allowance deduction. The Appellant is entitled to a child support deduction and is not currently receiving an accurate deduction based on information on his pay stubs. Therefore, the Respondent must recalculate the Appellant's SNAP benefits based on child support payments as documented on his pay stubs.

### **CONCLUSIONS OF LAW**

- 1) A child support deduction is an allowable income deduction for SNAP benefits.
- 2) The Appellant's current child support deduction is incorrect based on information on his pay stubs.

- 3) A SNAP recipient is not entitled to receive the Standard Utility Allowance deduction if his utility expense is not billed separately from his shelter expense.
- 4) The Appellant is not eligible for the Standard Utility Allowance deduction since he is not billed separately for utilities by his landlord.
- 5) The Respondent's disallowance of the SUA deduction is correct.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's calculation of SNAP benefits effective October 2023. The case is **REMANDED** to the Respondent to update the Appellant's child support deduction and recalculate his SNAP benefits.

**ENTERED this 8th day of November 2023.**

---

**Pamela L. Hinzman  
State Hearing Officer**